

HOUSE BILL 1310
By Head

AN ACT to enact the Education Projects Act of 2003; to authorize the State of Tennessee, acting by resolution of its funding board, to issue and sell its interest-bearing bonds and bond anticipation notes for the purpose of providing funds for education capital projects, including repairs, replacements, additions and betterments of existing buildings, facilities and equipment as well as acquisition of real estate and construction, furnishing and equipment of new buildings for public higher education facilities under the jurisdiction of the Tennessee Board of Regents and the University of Tennessee Board of Trustees, and for K-12 education facilities under the jurisdiction of local education agencies; to issue and sell bonds to fund discount and costs of issuance; to provide revenue for the retirement of the bonds; to provide revenue to local education agencies of counties, municipalities and special school districts for education projects within their districts and to provide for the expenditure of such funds; to amend Tennessee Code Annotated, Titles 49, 57 and 67. This act makes appropriations for an indefinite period of time for the purpose of allocating the proceeds of the bonds and notes authorized by this act.

WHEREAS, the General Assembly of the State of Tennessee has determined that the State's population is undereducated, a condition likely to negatively impact the economic and social development of this state; and

WHEREAS, the University of Tennessee and the Tennessee Board of Regents and the public institutions of higher education under their jurisdiction, as well as the elementary and secondary education schools provided by counties, municipalities and special school districts in this state, have a vital role to play in improving the state's educational attainment levels; and

WHEREAS, there is a significant unmet need in higher education for capital outlay and capital maintenance for the various higher education campuses across the state under the jurisdiction of the Tennessee Board of Regents and the University of Tennessee Board of Trustees; and

WHEREAS, the Tennessee Higher Education Commission has compiled a list of immediate unmet capital outlay needs totaling over four hundred forty-seven million dollars (\$447,000,000) and an immediate unmet capital maintenance need totaling over two hundred eighty-eight million dollars (\$288,000,000); and

WHEREAS, these figures for higher education capital project needs do not account for projects that will be needed in the next seven (7) years and are currently being identified to address the need created by normal activity and growth on the campuses; and

WHEREAS, this need will be compounded by a significant increase in enrollment which research data indicates is forthcoming within the next ten (10) years; and

WHEREAS, the reduction of class size mandated by the Education Improvement Act's Basic Education Program (BEP) for K-12 education has greatly increased the need for classroom and related space for students in addition to the needs that are manifest from recent increases in student population; and

WHEREAS, maintaining reduction in class size in elementary and secondary education and providing adequate facilities for students are key factors in improving performance of students in elementary and secondary schools; and

WHEREAS, the Tennessee Advisory Commission on Intergovernmental Relations estimates that the capital outlay needs for K-12 education over the next five (5) years will be

three billion, six hundred million dollars (\$3,600,000,000), and new funding needs over this five-year period beyond what is available under current programs total approximately five hundred twenty million dollars (\$520,000,000); and

WHEREAS, it is appropriate that the state share one half of the unmet capital needs of K-12 education with local education agencies; and

WHEREAS, without an enhancement of the facilities at the higher education institutions and elementary and secondary schools, there will be a significant shortage of available and adequate facilities in which to educate these students; and

WHEREAS, improvements in elementary, secondary and higher education are intimately linked and must be improved together in order for the state to produce a well-educated populace and workforce capable of meeting the demands of a technologically advanced society which must compete in a global economy; and

WHEREAS, it is the legislative intent that in each year of the One Hundred Third, One Hundred Fourth and One Hundred Fifth General Assemblies, funds be appropriated for the issuance of bonds in amounts similar to those provided in this bill to fund capital outlay and capital maintenance projects of public institutions of higher education under the jurisdiction of the Tennessee Board of Regents and the University of Tennessee Board of Trustees as prioritized by the Tennessee Higher Education Commission; and

WHEREAS, the current low interest rate environment offers the state a unique opportunity to significantly enhance education with minimum long-term fiscal impact; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The state, acting by resolutions of its funding board, is hereby authorized and empowered to issue and sell direct general obligation interest-bearing bonds of the state in amounts not to exceed two hundred sixty million dollars (\$260,000,000) to effectuate the purposes specified in section 4 of this act. Further, the funding board is authorized to issue and

sell bonds in amounts not to exceed two and one-half percent (2.5%) of the amounts specified herein and authorized in section 4, for the purpose of funding discount and costs of issuance. Such bonds may be issued and sold in one (1) block or in several installments and separately or together with other general obligation bonds of the state as the board may determine, after advertisement as provided by law.

SECTION 2. The bonds and the interest-bearing coupons attached thereto, if any, shall be in such form, mature at such time or times within twenty (20) years from the date of their issuance, be executed in such manner, be payable at such place or places both as to principal and interest and be in such denominations and bear such rate of interest, payable in such manner, as the funding board shall by resolution direct; provided, however, that the maximum rate determined by the funding board in no instance shall exceed the legal rate as provided in § 47-14-103 of Tennessee Code Annotated. The bonds shall be sold by the funding board after advertisement as provided by law, together with the accrued interest thereon, and when they have been sold, the proceeds derived from the sale thereof shall be paid to the state treasurer to be disbursed by the treasurer and other fiscal officers and agencies of the state as provided by the general law and this act. The bonds and interest payable thereon shall be exempt from taxation by the state or by any county, municipality or taxing district of this state except inheritance, transfer and estate taxes.

SECTION 3. When the bonds are so issued and sold, they shall be direct general obligations of the state for the payment of which well and truly to be made according to the tenor, effect and terms thereof the full faith and credit of the state together with its taxing power, shall irrevocably be pledged; and the bonds as authorized therein shall be issued agreeable to the terms of title 9, chapter 9 of Tennessee Code Annotated; and they shall be financed, retired and paid both as to principal and interest as provided in that chapter and shall be subject to the terms and conditions therein and herein contained. When the bonds are sold and proceeds paid over to the state treasurer, the funds shall be paid out by the treasurer and the proper fiscal

officers of the state, as provided by general law and this act, but only on order of the proper administrative authorities of the agency, department or unit of government herein named for the benefit of which such bonds have been authorized and only to the extent such bonds have, in fact, been issued for the benefit of such agency, department or unit of government.

SECTION 4. The proceeds of any and all issues of bonds herein authorized shall be allocated for the purpose and amounts herein specified:

Two hundred sixty million dollars (\$260,000,000) to the department of finance and administration to be allocated to the Tennessee board of regents and the University of Tennessee board of trustees and expended for the purpose of acquisition of equipment, acquisition of land and erection, construction and equipment of sites and buildings, expressly including the acquisition or reconstruction of existing structures for expansion, improvement, betterments and extraordinary repairs to existing structures at public higher education institutions under their jurisdiction.

In its discretion, the funding board is authorized to issue bonds in amounts not to exceed two and one-half percent (2.5%) of the amounts specified above, the proceeds of which are to be allocated to the funding board and expended for the purpose of funding discount and the costs of issuance.

SECTION 5. The proper authorities heretofore enumerated and charged with the duty of expending the funds shall have authority to proceed with the projects authorized herein and for that purpose may hire an architect or architects, advertise for bids and award contracts to lowest and best bidders, all within the provisions of general law, expressly including the provisions of title 4, chapter 15 of Tennessee Code Annotated, and in agreement with the terms of this act. No contract, including a contract for architectural services, involving a project authorized by this act which is subject to the approval of the state building commission shall be entered into unless and until that contract shall have been approved by the building commission; provided,

however, that projects of local education agencies shall not be subject to the approval of the state building commission.

SECTION 6. The appropriation made to each agency, department or unit of government as provided in section 4 may be applied as determined by the funding board to bear its appropriate portion of discount and costs of issuance.

SECTION 7. Pending the issuance of the bonds authorized by this act, the state, acting by resolutions of its funding board, is hereby authorized and empowered to issue and sell, either at public or private sale, together with accrued interest thereon, interest-bearing bond anticipation notes. Such notes shall be authorized by resolution of the funding board, shall bear interest at such rate or rates, be in such denominations, be in such form, be executed in such manner, be payable in such medium of payment, at such place or places and mature on such dates, subject to such terms and conditions as such resolution or resolutions may provide. In its discretion, the funding board may provide that a bond anticipation note or any renewal of such note may mature more than five (5) years from the date of issue of the original note; provided, that an amortization schedule of repayment of principal is established for the project funded by the note and provisions are made such that any note or renewal note or bond refunding such note attributed to the financing of such project shall be redeemed or retired either twenty-five (25) years from the date of issue of such original note or twenty (20) years from the date the projects are completed and placed in full service, whichever is earlier. Provisions of general law with respect to authentication, execution and registration of general obligation bonds of the state shall also apply to the notes to the extent applicable. The notes and the interest payable thereon shall be exempt from taxation by the state or by any county, municipality or taxing district of the state except inheritance, transfer and estate taxes. Resolutions of the funding board authorizing the issuance of such bond anticipation notes shall provide that the same are issued in anticipation of the bonds authorized hereunder and shall further provide that the full faith and credit of the state are pledged to the payment thereof.

SECTION 8. No bonds shall be issued under the authority of this act until such time as the general assembly has appropriated sufficient funds, or sufficient funds have been earmarked according to law for the purposes of this act, to pay the first year's obligation of principal and interest on the amount of bonds to be issued and the state funding board has determined that such funds are available.

SECTION 9. Notwithstanding any other provision of this act to the contrary, the bond and bond anticipation notes authorized for higher education projects pursuant to sections 1 and 4 of this act may be designated "college savings bonds" and be issued pursuant to the provisions of the Baccalaureate Education Savings for Tennessee Act, Chapter 190 of the Public Acts of 1989, as amended.

SECTION 10. Tennessee Code Annotated, Section 49-3-358, is amended by adding the following as an additional subsection to be inserted immediately after subsection (e) and by redesignating accordingly:

(f) Notwithstanding the foregoing, funds allocated to the education trust fund's basic education program account from a portion of the proceeds of the tax levied by § 67-4-409 shall be distributed to the various LEAs on the basis of the ADM of the LEA as a percentage of the total ADM in LEAs in this state. These funds shall be placed by the LEA in a capital projects reserve account (as assigned by the comptroller of the treasury) within the general purpose school fund. In order to expend funds within this reserve, LEAs shall provide matching funds according to a schedule promulgated by rule of the commissioner based upon the fiscal capacity calculations for equalization provided by the Tennessee advisory commission on intergovernmental relations (TACIR) and which shall parallel the requirements of state education funding established pursuant to this chapter. The fiscal capacity equalization requirements shall result in the amount of funding for local education capital outlay provided by this act being matched equally in the aggregate by the LEAs of this state, but the matching amount required of

individual LEAs shall vary according to their fiscal capacity. The funds received by LEAs pursuant to this subsection may be expended for the purpose of acquisition of land, erection, construction and equipment of sites and buildings, expressly including the acquisition or reconstruction of existing structures for expansion, improvement, betterments and extraordinary repairs to existing structures under the jurisdiction of LEAs, for acquisition of student transportation equipment, technology equipment, science laboratory equipment and for service of debt for these purposes; but these funds shall not be used to retire local education debt incurred prior to allocations to the LEA under this subsection.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 12. This act shall take effect on July 1, 2003, the public welfare requiring it.